

from his comments it is essentially his purpose with this legislation to go back to the language we had in that legislation that passed unanimously out of the Senate Judiciary Committee and passed unanimously out of this body—provisions he has detailed as they relate to search warrants, the strengthening of section 215, a 4-year sunset on NSLs, and NSL judicial review. So I will anxiously await the opportunity to review that legislation Chairman SPECTER has indicated just this afternoon will be available to us.

I am encouraged, once again, we will be able to look at those areas where I and others have been very concerned that we have not provided adequately for that balance between providing our law enforcement the tools they need while, at the same time, maintaining the individual liberties we as Americans expect and certainly deserve. So, as I indicated, I look forward to reviewing that legislation.

But the legislation we are considering today—the conference report—I believe has made improvements on the original product of the PATRIOT Act, and so with passage of the additional protections, it is my intention to vote for cloture on the PATRIOT Act reauthorization bill.

Mr. LEAHY. Mr. President, the Republican leadership has made a mistake and is abusing its power by choking off debate on this important bill. Regrettably the majority leader has chosen to prevent any effort to offer amendments to the bill and has effectively stifled open debate. While I voted to proceed to consideration of the bill, I do not condone the Republican leadership's current abuse.

I have filed an amendment that would improve the bill by correcting one of the most egregious “police state” provisions regarding gag orders. The Bush-Cheney administration used the last round of discussions with Republican Senators to make the gag order provisions worse, in my view, by forbidding any court challenge for 1 year. The conference report places no similar restriction on recipients of national security letters, and there is no justification for its inclusion here.

In addition, the bill continues and cements into law procedures that, in my view, unfairly determine legitimate challenges to gag orders. It allows the Government to ensure itself of victory by certifying that, in its view, disclosure “may” endanger national security or “may” interfere with diplomatic relations. Unless the Government is acting in bad faith, the court must accept the certification as conclusive and must rule in favor of the Government.

This is the type of provision to which I have never agreed. The conference report uses identical language in connection with NSL gag orders, and I resisted it in that context. I agreed with Senator SUNUNU, who said in December that it would prevent meaningful judicial review because NSL recipients would never be able to show bad faith

on the part of the Federal Government. Senator SPECTER has also been critical of this provision.

My amendment would have corrected these unnecessary excesses. It struck both the 1-year waiting period for challenging a gag order and the “conclusive presumption” in favor of the Government. These changes are simple but they are essential if we are to avoid creating rigged procedures where the Government always wins, regardless of the merits.

By its abuse of the rules, the Republican leadership is preventing any opportunity to correct these matters. That is wrong. The Senate may have accepted or rejected my effort to remove this un-American restraint on meaningful judicial review of gag orders, but I should have had the opportunity to offer it.

In the weeks following 9/11, some of us worked hard in cooperation with the Bush-Cheney administration on what came to be the USA PATRIOT Act. I remind the current Republican leadership that even then, in those extraordinary times, we allowed Senators to offer amendments. We took difficult votes. I would have liked to have supported some of those amendments but, in my role as the chair of the Judiciary Committee, I felt that I could not at that time. But I did not and the majority leader, Senator DASCHLE, did not fill the amendment “tree” with sham amendments. Instead, we worked out an agreement to proceed with amendments and votes on those amendments.

In 2001, I fought for time to provide some balance to Attorney General Ashcroft's demands that the Bush-Cheney administration's antiterrorism bill be enacted in a week. We worked hard for 6 weeks to make that bill better and were able to include the sunset provisions that contributed to reconsideration of several provisions over the last several months. Last year I worked with Chairman SPECTER and all the members of the Judiciary Committee and the Senate to pass a reauthorization bill in July. As we proceeded in House-Senate conference on the measure, the Bush-Cheney administration and congressional Republicans locked Democratic conferees out of their deliberations and wrote the final bill. That was wrong.

Last December, working with a bipartisan group of Senators, we were able to urge reconsideration of that final bill. Senators SUNUNU and CRAIG were able to use that opportunity to make some improvements. I commend them for what they were able to achieve and hope that my support for their efforts has been helpful. I wish that along the way the Bush-Cheney administration had shown interest in working together to get to the best law we could for the American people.

Since the House-Senate conference was hijacked, I have tried to get this measure back on the right track. We have been able to achieve some improvements. I regret that this bill is

not better and that the intransigence of the Bush-Cheney administration has prevented a better balance and better protections for the American people. Just as I worked for an opportunity for Senator SUNUNU to seek improvements to the conference report, I will now vote against these unfair efforts to forestall any amendments to this measure. I remain committed to working to provide the tools that we need to protect the American people. That includes working to provide the oversight and checks needed on the uses of Government power and to improve the reauthorization of the PATRIOT Act.

In light of the abuse being perpetrated by the Republican leadership, I will vote against their stifling of meaningful debate and their obstruction of efforts to improve the bill, the conference report and the PATRIOT Act. I will vote against cloture on the bill without any opportunity to offer amendments. I urge the Republican leadership to reconsider its actions and allow a few amendments to be offered to the bill so that we can seek to improve it before final passage by the Senate.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. MCCONNELL. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business, with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

BLACK HISTORY MONTH

Mr. DURBIN. Today, I would like to take the opportunity to honor the contributions of African Americans, particularly since this year marks the 80th anniversary of historian and scholar Carter G. Woodson's launch of Negro History Week in 1926. Since then, the contributions of African Americans to American history have been recognized and celebrated, and February has been designated “Black History Month.”

I especially want to pay tribute to Mrs. Rosa Parks and Mrs. Coretta Scott King, the mother and the first lady, respectively, of the modern civil rights movement, who inspired ordinary African Americans to demand equal rights as American citizens. Their recent deaths remind us, during this month in particular, to take the time to reflect on the vital heritage and important contributions of African Americans.